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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/658,725
Filing Date: September 09, 2003
Appellant(s): FRANK ET AL.

Ognyan I. Beremski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 26, 2007 appealing from the Office action mailed May 24, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Patent: US 6,978,144 CHOKSI 12-2005

Publication: US 2003/0134650 SUNDAR ET AL. 7-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. **Claims 1-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Choksi (US Patent 6,978,144)** in view of **Sundar et al. (US Patent Application Publication 2003/0134650)**.

Consider **claim 1**, Choksi discloses a method for providing bandwidth management in a hybrid wired/wireless local area network (*Abstract*), the method comprising:

receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session (*call admission request is submitted – Column 7, Lines 5-15 and 33-41*);

responsive to said first messaging protocol message, determining an available communication bandwidth for at least a portion of the hybrid wired/wireless local area network (*current bandwidth usage plus the requested bandwidth must not exceed a threshold – Column 7, Lines 61-67; Column 8, Lines 1-5; radio link can be an 802.11 based WLAN Column 3, Line 35*); and

allocating bandwidth to accommodate said communication session (*read as the request is allowed – Column 8, lines 1-5*).

However, Choksi discloses the allocation of resources and allowance of call admission requests, but fails to specifically disclose the notification to the first access point of the communication system to commence the connection.

In related prior art, Sundar et al. discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the serving BSC informs the desired BSC of the

desire to handoff, and once the operation is the complete, acknowledgements are returned to the initiating parties (*Figure 12 – Page 6, Paragraphs 0074-0075*).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teachings of Sundar et al. with those of Choksi in order to provide users with necessary bandwidth to complete their communications and control a network so that it's bandwidth capabilities are not exceeded.

Consider **claim 9**, Choksi discloses a machine-readable storage, having stored thereon a computer program having at least one code section for providing bandwidth management in a hybrid wired/wireless local area network (*Abstract*), the at least one code section executable by a machine for causing the machine to perform the steps comprising:

receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session (*call admission request is submitted – Column 7, Lines 5-15 and 33-41*);

responsive to said first messaging protocol message, determining an available communication bandwidth for at least a portion of the hybrid wired/wireless local area network (*current bandwidth usage plus the requested bandwidth must not exceed a threshold – Column 7, Lines 61-67; Column 8, Lines 1-5; radio link can be an 802.11 based WLAN Column 3, Line 35*); and

allocating bandwidth to accommodate said communication session (*read as the request is allowed – Column 8, lines 1-5*).

However, Choksi discloses the allocation of resources and allowance of call admission requests, but fails to specifically disclose the notification to the first access point of the communication system to commence the connection.

In related prior art, Sundar et al. discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the serving BSC informs the desired BSC of the desire to handoff, and once the operation is complete, acknowledgements are returned to the initiating parties (*Figure 12 – Page 6, Paragraphs 0074-0075*).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teachings of Sundar et al. with those of Choksi in order to provide users with necessary bandwidth to complete their communications and control a network so that its bandwidth capabilities are not exceeded.

Consider **claim 17**, Choksi discloses a system for providing bandwidth management in a hybrid wired/wireless local area network (*Abstract*), the at least one code section executable by a machine for causing the machine to perform the steps comprising:

a receiver adapted to receive from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session (*call admission request is submitted – Column 7, Lines 5-15 and 33-41*);

at least one controller adapted to determine an available communication bandwidth for at least a portion of the hybrid wired/wireless local area network (*current bandwidth usage plus*

the requested bandwidth must not exceed a threshold – Column 7, Lines 61-67; Column 8, Lines 1-5; radio link can be an 802.11 based WLAN Column 3, Line 35); and

said at least one controller adapted to allocate bandwidth to accommodate said communication session (*read as the request is allowed – Column 8, lines 1-5*).

However, Choksi discloses the allocation of resources and allowance of call admission requests, but fails to specifically disclose the notification to the first access point of the communication system to commence the connection. .

In related prior art, Sundar et al. discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the serving BSC informs the desired BSC of the desire to handoff, and once the operation is the complete, acknowledgements are returned to the initiating parties (*Figure 12 – Page 6, Paragraphs 0074-0075*).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teachings of Sundar et al. with those of Choksi in order to provide users with necessary bandwidth to complete their communications and control a network so that it's bandwidth capabilities are not exceeded.

Consider **claim 2**, as applied to claim 1 above, Choksi as modified by Sundar et al. further discloses receiving said at least a first messaging protocol message by at least one of a second switch and a second access point (*Sundar et al. – the serving WLAN MSC informs the*

desired WWAN BSC of the handoff requests – Figure 12, Steps 1204-1210 – Page 6, Paragraph 0074).

Consider **claim 3**, as applied to claim 2 above, Choksi as modified by Sundar et al. further discloses requesting bandwidth usage information from at least one of said first access point and said first switch using said at least a first messaging protocol (*Choksi – call admission request are single bandwidth requests – Column 7, Lines 42-48*).

Consider **claim 4**, as applied to claim 3 above, Choksi as modified by Sundar et al. further discloses de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 5**, as applied to claim 4 above, Choksi as modified by Sundar et al. further discloses sending said at least a third messaging protocol message from at least one of said second switch and said second access point to at least one of said first switch and said first access point (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 6**, as applied to claim 5 above, Choksi as modified by Sundar et al. further discloses receiving bandwidth information from at least one of a quality of service management process, a load balancing management process, a session control process, and a network management process using at least a fourth messaging protocol message (*Choksi – QoS*

policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15).

Consider **claim 7**, as applied to claim 6 above, Choksi as modified by Sundar et al. further discloses requesting said bandwidth information from said quality of service management process, said load balancing management process, said session control process, and said network management process using a fifth messaging protocol message (*Choksi – QoS policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15).*

Consider **claim 8**, as applied to claim 7 above, Choksi as modified by Sundar et al. further discloses that said first, second, third, fourth, and fifth messaging protocol messages each comprise at least one message selected from the group consisting of an access point status message, access point configuration message, a switch status message, a switch configuration message, a client status message, and a device discovery message (*Choksi – the messages request the status of the access points, hence gaining their status and configuration – Column 7, Lines 42-47; Sundar et al. – device discovery is used to determine available networks – Page 4, Paragraphs 0055-0057; Sundar et al. – BSCs determine statuses of access points to perform call connections – Page 6, Paragraph 0074).*

Consider **claim 10**, as applied to claim 9 above, Choksi as modified by Sundar et al. further discloses receiving said at least a first messaging protocol message by at least one of a second switch and a second access point (*Sundar et al. – the serving WLAN MSC informs the desired WWAN BSC of the handoff requests – Figure 12, Steps 1204-1210 – Page 6, Paragraph 0074).*

Consider **claim 11**, as applied to claim 10 above, Choksi as modified by Sundar et al. further discloses requesting bandwidth usage information from at least one of said first access point and said first switch using said at least a first messaging protocol (*Choksi – call admission request are single bandwidth requests – Column 7, Lines 42-48*).

Consider **claim 12**, as applied to claim 11 above, Choksi as modified by Sundar et al. further discloses de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 13**, as applied to claim 12 above, Choksi as modified by Sundar et al. further discloses sending said at least a third messaging protocol message from at least one of said second switch and said second access point to at least one of said first switch and said first access point (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 14**, as applied to claim 13 above, Choksi as modified by Sundar et al. further discloses receiving bandwidth information from at least one of a quality of service management process, a load balancing management process, a session control process, and a network management process using at least a fourth messaging protocol message (*Choksi – QoS policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15*).

Consider **claim 15**, as applied to claim 14 above, Choksi as modified by Sundar et al. further discloses requesting said bandwidth information from said quality of service management process, said load balancing management process, said session control process, and said network management process using a fifth messaging protocol message (*Choksi – QoS policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15*).

Consider **claim 16**, as applied to claim 15 above, Choksi as modified by Sundar et al. further discloses that said first, second, third, fourth, and fifth messaging protocol messages each comprise at least one message selected from the group consisting of an access point status message, access point configuration message, a switch status message, a switch configuration message, a client status message, and a device discovery message (*Choksi – the messages request the status of the access points, hence gaining their status and configuration – Column 7, Lines 42-47; Sundar et al. – device discovery is used to determine available networks – Page 4, Paragraphs 0055-0057; Sundar et al. – BSCs determine statuses of access points to perform call connections – Page 6, Paragraph 0074*).

Consider **claim 18**, as applied to claim 17 above, Choksi as modified by Sundar et al. further discloses that the receiver is further adapted to receive said at least a first messaging protocol message by at least one of a second switch and a second access point (*Sundar et al. – the serving WLAN MSC informs the desired WWAN BSC of the handoff requests – Figure 12, Steps 1204-1210 – Page 6, Paragraph 0074*).

Consider **claim 19**, as applied to claim 18 above, Choksi as modified by Sundar et al. further discloses that the at least one controller is adapted to request bandwidth usage information from at least one of said first access point and said first switch using said at least a

first messaging protocol (*Choksi – call admission request are single bandwidth requests – Column 7, Lines 42-48*).

Consider **claim 20**, as applied to claim 19 above, Choksi as modified by Sundar et al. further discloses that the at least one controller is adapted to de-allocate said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 21**, as applied to claim 20 above, Choksi as modified by Sundar et al. further discloses that the at least one controller is adapted to send said at least a third messaging protocol message from at least one of said second switch and said second access point to at least one of said first switch and said first access point (*Sundar et al. – once the mobile has handed off to the WWAN, the WWAN notifies the WLAN MSC that it may clear the resources previously allocated for the mobile – Figure 12, steps 1226-1228 – Page 6, Paragraph 0074*).

Consider **claim 22**, as applied to claim 21 above, Choksi as modified by Sundar et al. further discloses that the receiver is adapted to receive bandwidth information from at least one of a quality of service management process, a load balancing management process, a session control process, and a network management process using at least a fourth messaging protocol message (*Choksi – QoS policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15*).

Consider **claim 23**, as applied to claim 22 above, Choksi as modified by Sundar et al. further discloses that at least one controller is adapted to request said bandwidth information

from said quality of service management process, said load balancing management process, said session control process, and said network management process using a fifth messaging protocol message (*Choksi – QoS policy is retrieved during the bandwidth allocation request – Column 6, Lines 60-67 and Column 7, Lines 5-15*).

Consider **claim 24**, as applied to claim 23 above, Choksi as modified by Sundar et al. further discloses that said first, second, third, fourth, and fifth messaging protocol messages each comprise at least one message selected from the group consisting of an access point status message, access point configuration message, a switch status message, a switch configuration message, a client status message, and a device discovery message (*Choksi – the messages request the status of the access points, hence gaining their status and configuration – Column 7, Lines 42-47; Sundar et al. – device discovery is used to determine available networks – Page 4, Paragraphs 0055-0057; Sundar et al. – BSCs determine statuses of access points to perform call connections – Page 6, Paragraph 0074*).

Consider **claim 25**, as applied to claim 23 above, Choksi as modified by Sundar et al. further discloses that at least one controller is a bandwidth management controller, a quality of service controller, a load balancing controller, a session controller, and a network management controller (*Choksi – Column 4, Lines 18-46*).

(10) Response to Argument

The following is in response to Appellant's arguments that the proposed combination of Choksi and Sundar et al. does not render claims 1-25 unpatentable.

Independent Claims 1, 9, and 17

With regard to independent claims 1, 9, and 17, Appellant has argued that Choksi fails to disclose **hybrid wired/wireless LAN**. As cited in the Final Office Action on Page 5, this limitation is discussed in Column 3, Lines 32-35 of Choksi where it states "Wireless link 38 is a radio frequency (RF) link. The wireless link 38 may be ... 802.11 based WLAN..." The cited portions of Choksi used throughout the rejection are discussing the bandwidth management of this wireless link, which as evidenced by the above citation, includes an 802.11 based WLAN. The 802.11 WLAN encompasses a hybrid wired/wireless LAN because a WLAN is known and widely accepted in the art as a network configuration comprising wireless access points which are interconnected in a wired fashion.

Appellant has presented the argument that Choksi does not disclose or suggest "receiving by an access point or a switch a messaging protocol message ..." The Examiner respectfully disagrees with this assertion because the claim recites "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message ..." No where in the claim is there a recitation that defines where the message is received. However, Choksi discloses the claimed limitation of "receiving from at least one of a first access point and a switch, at least a first messaging protocol message for establishing a communication session" in Column 7, Lines 5-15 and 33-41 where they discuss the call admission request. The call

admission request is propagated through the network to the bandwidth allocation controller of Figure 2.

Furthermore, the argument has been presented Sundar et al. fails to disclose or suggest that "an access point is notified of allocated bandwidth using a messaging protocol message." The Examiner respectfully disagrees because during the call setup the switch is notified that the connection has been allowed (see Figure 12 and Page 6, Paragraphs 0074-0075).

Regarding the argument that the Examiner has rejected claim 1 based on inherency, it should be noted that the Examiner was stating that this feature was known in the art. The rejection goes on immediately afterwards to show evidence of this assertion in the prior art (see Page 3 of the Final Office Action). Sundar et al. discusses "notifying said first access point of said allocated bandwidth using at least a second messaging protocol message" in Figure 12 (discussed in detail on Page 6, Paragraphs 0074-0075) which shows the messaging of the wireless system (in this case an 802.11 based WLAN) during connection setup.

Dependent Claims 2, 10, and 18

Regarding the argument that Choksi does not disclose receiving the message, the Examiner was not relying upon Choksi to disclose this feature. As noted in the Final Office Action on page 8, Sundar et al. was relied upon to teach the signal processing at at least one of a second switch and a second access point. This is evidenced because the first messaging protocol message (as discussed in claim 1 by Choksi as being a call admission request) initiates the establishing of the session. Sundar et al. picks up from Choksi to disclose the signaling which takes place due to a call admission request. Sundar et al. shows the entire process from initiation

to final signaling of at least one of the second switch and access point. See Figure 12 described in detail on Page 6, Paragraphs 0074-0075 where the WLAN MSC informs the desired WWAN BSC (these network components are switches).

Dependent Claims 3, 11, and 19

Regarding the argument that Choksi does not disclose or suggest any requesting of bandwidth usage information with regard to an access point or a switch within a hybrid wired/wireless LAN or requesting bandwidth usage information from an access point or a switch using a messaging protocol message, the Examiner disagrees.

Initially, claim 3 is not specifically limited so that the usage information is in "regard to an access point or a switch..." The claim only states that the information is requested from one of these entities. Furthermore, Choksi discloses requesting bandwidth information about at least a portion of the network when the call admission request is sent over the network. See Column 7, Lines 42-48.

Dependent Claims 4, 12, and 20

Regarding the argument that Sundar et al. does not disclose any processing with regard to bandwidth allocation and de-allocation for an access point and/or a switch in a hybrid network, the Examiner disagrees.

Since Sundar et al. is disclosing a handoff, communication sessions are being established and terminated. Sundar et al. discloses clearing of resources allocated for an established communication session. Appellant acknowledges the signaling by the system that the "resources

may be cleared.” This clearing takes process when the user is no longer connected to the previously established system. Therefore disclosing the limitation of “de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session.

Therefore, the process outlined in Sundar et al. in Figure 12, and described on Page 6, Paragraph 0074 discloses bandwidth allocation and de-allocation for an access point and/or a switch in a hybrid network using a messaging protocol message.

Dependent Claims 5, 13, and 21

Regarding the argument that Sundar et al. does not disclose any processing with regard to bandwidth allocation and de-allocation for an access point and/or a switch in a hybrid network, the Examiner disagrees.

Since Sundar et al. is disclosing a handoff, communication sessions are being established and terminated. Sundar et al. discloses clearing of resources allocated for an established communication session. Appellant acknowledges the signaling by the system that the “resources may be cleared.” This clearing takes process when the user is no longer connected to the previously established system. Therefore disclosing the limitation of “de-allocating said allocated bandwidth using at least a third messaging protocol message subsequent to termination of said established communication session.

Therefore, the process outlined in Sundar et al. in Figure 12, and described on Page 6, Paragraph 0074 discloses bandwidth allocation and de-allocation for an access point and/or a switch in a hybrid network using a messaging protocol message.

Dependent Claims 6, 14, and 22

Regarding the argument that Choksi fails to disclose that bandwidth information is received from at least one of a quality of service management process, a load balancing management process, a session control process, and a network management process using at least a fourth messaging protocol message, the Examiner disagrees.

During the bandwidth request, bandwidth information is received that is pertinent to managing the resources in order to provide differentiated tiered services. This information relies on certain aspects of the network, such as Quality of Service requirements. See Column 6, Lines 60-67 and Column 7, Lines 1-5; as well as Figure 3.

Dependent Claims 7, 15, and 23

Regarding the argument that Choksi fails to disclose that bandwidth information is requested from said quality of service management process, a load balancing management process, a session control process, and a network management process using a fifth messaging protocol message, the Examiner disagrees.

During the bandwidth request, bandwidth information is received that is pertinent to managing the resources in order to provide differentiated tiered services. This information relies on certain aspects of the network, such as Quality of Service requirements. See Column 6, Lines 60-67 and Column 7, Lines 1-5; as well as Figure 3.

Dependent Claims 8, 16, and 24

Regarding the argument that Choski as modified by Sundar et al. fails to disclose that said first, second, third, fourth, and fifth messaging protocol messages each comprise at least one message selected from the group consisting of an access point status message, access point configuration message, a switch status message, a switch configuration message, a client status message, and a device discovery message, the Examiner disagrees.

As evidenced by the foregoing responses to Appellant's arguments, the messaging protocol messages at least comprise status messages, as required by the claim, since the system of Choksi processes bandwidth allocation requests by requesting the status of the access points and/or switches. See Column 7, Lines 42-47. Sundar et al. additionally teaches determining the status of network devices. See Page 4, Paragraphs 0055-00578 and Page 6, Paragraph 0074.

Dependent Claim 25

Initially the Examiner would like to address that while claim 25 ultimately depends from claim 17 (as stated in Appellant's Brief on Page 42), it actually directly depends from claim 23. Since no additional arguments have been provided for claim 25, the reasons stated above also apply to claim 25, since Choksi discloses a bandwidth management controller on column 4, Lines 18-46.

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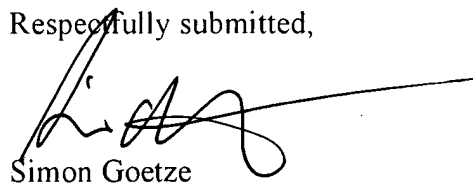
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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




Simon Goetze

Art Unit 2617

January 18, 2007

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1/22/07



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